

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

ROBERT LEE JONES

Plaintiff

VS.

JACK IN THE BOX, INC.

Defendant

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CASE NO. _____

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant JACK IN THE BOX INC., files this Notice of Removal and removes to this Court a state court action that is pending in the 149th Judicial District Court of Brazoria County, Cause No. 106813-CV, and in support of such removal would respectfully show as follows:

I. Procedural Background

On or about February 18, 2020, Plaintiff ROBERT LEE JONES filed an Original Petition in Cause No. 106813-CV in the 149th Judicial District Court of Brazoria County, Texas. In that matter, Plaintiff sued a single defendant, Jack in the Box Inc., and asserted causes of action arising out of alleged personal injuries suffered at or immediately outside of a restaurant. Plaintiff's Original Petition includes a jury demand.

Plaintiff alleges and seeks to recover actual damages in excess of \$200,000.00. See Plaintiff's Original Petition, p. 8, ¶ G. Defendant was served with citation on March 5, 2020. Defendant timely filed its Answer on March 26, 2020.

Plaintiff is a natural person and a Texas citizen domiciled in Brazoria County,

Texas. See Plaintiff's Original Petition, p. 2, ¶ 1. Defendant Jack in the Box Inc. is alleged by Plaintiff to be a foreign (California) corporation. *Id*, p. 2, ¶ 2. Defendant Jack in the Box Inc. is, in fact, incorporated in the State of Delaware, and it maintains its principal place of business and executive offices in the State of California. See Plaintiff's Original Petition, Exhibit "A," pp. 1- 6.

II. Basis for Removal

Defendant is entitled to remove this cause, pursuant to 28 U.S.C. §1332, because the district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds \$75,000.00 and is between citizens of different states.

Defendant was served with process in this case on March 5, 2020. This notice of removal is timely in that it was filed within 30 days of receipt of service of this matter on Defendant.

Pursuant to 28 U.S.C. § 1446(d), Defendant has filed a copy of the Notice of Removal with the clerk of the Court in the state court action being removed, and has given notice thereof to all adverse parties.

Pursuant to Southern District of Texas Local Rule 81, copies of the following documents are hereby provided to the clerk for filing in connection with this Notice of Removal:

1. All executed process in the case, attached hereto as Exhibit "A";
2. Pleadings asserting causes of action, attached hereto as Exhibit "B";
3. The docket sheet, attached hereto as Exhibit "C";
4. An index of matters being filed, attached hereto as Exhibit "D"; and
5. A list of all counsel of record, including addresses, telephone numbers and parties represented, attached hereto as Exhibit "E".

III. Conclusion and Prayer

The basis for removal, and this Court's jurisdiction, is diversity jurisdiction under 28 U.S.C. § 1332.

WHEREFORE, Defendant JACK IN THE BOX INC. respectfully requests that the above-entitled action be removed from the 149th Judicial District Court of Brazoria County, Texas to the United States District Court for the Southern District of Texas, Galveston Division.

Respectfully submitted,

FUNDERBURK, FUNDERBURK & COURTOIS

By: 

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ATTORNEY FOR DEFENDANT
JACK IN THE BOX INC.

CERTIFICATE OF SERVICE

I certify that on April 2, 2020, a copy of the foregoing was electronically filed using the CM/ECF system, which will automatically serve a Notice of Filing on the following attorneys:

Newton B. Schwartz
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Email: nbs@nbslawyers.com

Attorneys for Plaintiff
Robert Lee Jones

By: 
ERNEST G. FIELDER